

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 22, 1996

ALL COUNTY LETTER 96-27

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: IMPLEMENTATION OF FOOD STAMP PROGRAM PROVISIONS OF THE STUDENT ELIGIBILITY, FINAL RULE FROM THE FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT OF 1990.

REFERENCE: Manual Section (M.S.) 63-1433; 63-102i.(5); 63-406.111, .111(a)(1), .111(a)(2), .111(a)(2)(A), .12, .122, .212, .216, .216(e), .217, .22 and .221.

This letter provides County Welfare Departments (CWDs) with information concerning the implementation of revised Food Stamp Program student eligibility provisions contained in the Food, Agriculture, Conservation and Trade Act of 1990. These provisions are effective June 1, 1996. Restored benefits must be provided, as appropriate. Enclosed is the revised regulation package.

The overall purpose of the regulations is to assure appropriate participation in education and training components for students eligible to receive food stamps. These provisions amend and clarify existing student eligibility regulations as defined below:

- Removes the definition of "Institution of higher education" from the definition section to the student applicability section where it has been reformatted to facilitate a better understanding of the student provisions.
- Changes the work study exemption from the current requirement that a student must actually be working in a work study job to one where a person must only be approved for work study.
- Expands the student eligibility criteria for persons who are in Employment and Training (E&T) programs by allowing student eligibility for self-initiated or voluntary placements in an institution of higher education.
- Requires the CWDs to make the determination that a person has been placed in an institution of higher education through a state or local employment and training program.

- Exempts a person from the student eligibility requirements only when he/she is involved in actual on-the-job training. When he/she is only attending classes in an institution of higher education, he/she must meet one of the student eligibility requirements.
- Expands the definition of a single parent as being a natural, adoptive or stepparent regardless of marital status.

### IMPLEMENTATION INSTRUCTIONS

M.S. 63-1433 specifies that effective June 1, 1996 CWDs shall implement the above mentioned provisions for all Food Stamp household applicants.

The CWD shall convert affected continuing cases at household request, at recertification or when the case is next reviewed, whichever occurs first. Benefits will be restored back to the date of application or November 1, 1995 whichever occurred later.

Any affected household who had their application denied, was terminated or had their benefits reduced between November 1, 1995 and June 1, 1996 due to the ineligibility under the previous student eligibility criteria, but would be eligible under the new student eligibility criteria, shall have their benefits restored, if otherwise eligible, back to the date of application or November 1, 1995 or date of adverse action, whichever occurred later. Restoration of benefits will be made upon the household's request of a review of its case or when the CWD becomes aware that a review is needed. Restoration of benefits shall be made in accordance with Section 63-802.

A multilingual poster, TEMP 2118, has been developed to inform households of the new changes. A supply of the posters will be sent to you under separate cover. The poster shall be displayed starting June 1, 1996 and shall remain posted until August 31, 1996. Each CWD shall be responsible for displaying these posters in all CWD offices, issuance sites, or locations frequented by Food Stamp recipients and applicants.

### REGULATION CHANGES

#### Definitions (M.S. 63-102i.(5))

M.S. 63-102i.(5) is deleted and the definition of "Institution of higher education" is moved from this section to the student applicability section (M.S. 63-406.11) to facilitate a better understanding of the student provisions. This definition has been expanded as explained below.

#### Student Applicability (M.S. 63-406.111, .111(a)(1), (a)(2), (a)(2)(A), 63-406.12 and .122)

M.S. 63-406.111 and .111(a)(1) expand the definition of "Institution of higher education" to include a person who is enrolled at least 1/2 time in a business or trade school at the post high school level, which normally requires a high school diploma or equivalency certificate for enrollment, as one who meets the definition of a student attending an "Institution of higher education". It further specifies that a regular curriculum at an institution of higher education includes (1) requirements which must be completed for graduation, (2) for a certification or (3) for qualification in a particular field of study.

M.S. 63-406.111(a)(2) and .111(a)(2)(A) clarify that "Institution of higher education" also refers to institutions that enroll persons at least 1/2 time in the regular curriculum of a college or university that offers degree programs even though a high school diploma is not required. It further clarifies that if a person is enrolled in a college which normally requires a high school diploma or equivalency certificate but enrollment is in a course or program which does not require a high school diploma or its equivalent then that person is not enrolled in an institution of higher education.

M.S. 63-406.12 is amended by deleting and transferring to M.S. 63-406.111 the provision that persons enrolled in noncredit courses which are not part of the regular curriculum or special programs at a college or university, do not meet the definition of a student attending an "Institution of higher education".

It also clarifies that student eligibility requirements do not apply to a person participating in on-the-job training programs when the person is in the actual job training component. However, when the same person is participating in the educational component (class attendance) of an on-the-job training program, student eligibility requirements do apply.

It further clarifies that the student eligibility requirements do not apply to a person enrolled less than half time in a business, trade, vocational or technical school or to a person enrolled less than half time in the regular curriculum in an institution of higher education.

M.S. 63-406.122 clarifies that when a person is participating in the educational (class attendance) component of the on-the-job training program by attending classes in an institution of higher education at least half time, the person must meet one of the student eligibility criteria.

In addition, two handbook examples have been added for clarity. The first handbook example clarifies that when a person is enrolled exclusively in classroom instruction as part of the on-the-job training program he/she must meet one of the student eligibility requirements.

The second example clarifies that when a person is enrolled in both the training component along with the educational (class attendance) component that person does not have to meet the student criteria. Although this example specifies equal time in both the educational component and the job training component, the length of time in the training component is not the determining factor for the student exemption. If any amount of time is spent in the job training component that person is exempt from the student eligibility criteria.

#### Student Eligibility Requirements (M.S. 63-406.212, .216, .216(e), .217, .22 and .221)

M.S. 63-406.212 changes the work study exemption from the current requirement that a student must actually be working in a work study job. Instead, a student only has to be approved for work study and anticipate working during the school term. This provision also clarifies that the work study exemption will not continue in a school term when there are breaks of a full month or longer unless a student is participating in a work study assignment, or if the student refuses a work assignment. This means that when a student is not in a work study program during this time period, he/she must meet one of the other student eligibility criteria to maintain eligible student status.

M.S. 63-406.216 expands and clarifies that a person who enrolls himself/herself in an institution of higher education while the person is enrolled in any of the E&T programs satisfies the student eligibility criteria under this section. In addition, persons who voluntarily participate in one of the E&T programs and are then placed in an institution of higher education by the program also qualify for the exemption.

M.S. 63-406.216(e) changes the current eligibility requirement and now requires the CWDs to make the determination that a person has been placed in an institution of higher education through a state or local government employment and training program for low income households. The determination is to be made using the current E&T program criteria.

M.S. 63-406.217 clarifies that a single parent is a natural, adoptive or stepparent regardless of marital status. The single parent could be a person who never married, a widow or widower, separated, divorced, or married and living in a separate household from the other parent. In addition, if the single parent is not in the same food stamp household as the child, a full time student in the same household as the child may qualify for eligible student status if he/she has parental control of the child and is not living with his/her spouse.

M.S. 63-406.217 (Handbook) provides an example to clarify that there must only be one parent in the household, regardless of marital status, to qualify for the student eligibility criteria.

M.S. 63-406.22 deletes the work study exception for enrollment. This means that the student who met the work study requirement during the school year will not meet this requirement when there is a break of one month or more, unless he/she is in a work study assignment. At that time, the student must meet one of the other student eligibility criteria to maintain eligible student status.

M.S. 63-406.221 clarifies that the student eligibility criteria shall be applied on the date of interview, not the date of application.

If you have any questions regarding the implementation guidelines please call Maria Tarango of the Food Stamp Program Bureau at (916) 654-1883. If you have questions regarding the TEMP 2118 poster, please contact Melissa Buchanan at (916) 654-8467.



BRUCE WAGSTAFF  
Deputy Director  
Welfare Programs Division

Enclosure

DRAFT

Adopt Section 63-1433 to read:

63-1433 IMPLEMENTATION OF FOOD STAMP STUDENT ELIGIBILITY PROVISIONS,  
FINAL RULE

63-1433

1. The regulations contained in Sections 63-406.11, .111, .111(a), .111(a)(1), .111(a)(2), .111(a)(2)(A), .12, .121, .122, .212, .216, .216(e), .217, .217(a), .22 and .221 shall become effective June 1, 1996 for all food stamp households.
2. County welfare departments shall implement the provisions for all new applications beginning June 1, 1996, and restore benefits back to that date or the date of application, whichever is later.
3. Households that had food stamp benefits reduced, denied or terminated due to the ineligibility of one or more student members, under the previous student eligibility criteria, who would be eligible under the new student eligibility criteria, shall be entitled to have their benefits restored back to November 1, 1995, date of application, or date of adverse action whichever is later. A review shall be conducted at household request or if the CWD becomes aware one is needed, and a restoration made if the household is entitled.

For cases that are currently active, the review and benefit adjustment, if necessary, should be made when the CWD becomes aware that a review is needed, upon request by the household, or at recertification, whichever occurs first.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code and Federal Register, Volume 60, Number 183, pages 48865 through 48870, dated September 21, 1995.

DRAFT

Repeal Section 63-102i.(5)

63-102 DEFINITIONS

63-102

a.through i.(4) (Continued)

- ~~(5) "Institution of higher education" means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment, including but not limited to, colleges, universities, and vocational or technical schools at the post high school level. Some institutions, which normally require a high school diploma or equivalent, make exceptions for certain students who the institution feels can benefit from the program offered even though the student has not graduated from high school. In such cases, these institutions are still to be considered "institutions of higher education". Community or junior colleges, which do not require a high school diploma or equivalency certificate for students 18 years of age and older, also are considered "institutions of higher education".~~

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; and 42 U.S.C.A. 5122; 7 CFR 273.1(c)(5); 7 CFR 271.2; 7 CFR 273.2, .2(j), and (j)(4); 7 CFR 273.5(a); 7 CFR 273.9(c)(1)(ii)(D); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.16(c); 7 CFR 273.21(b); 7 CFR 274.3(a)(2); 7 CFR 2710.2; 45 CFR 401; 45 CFR 400.62; Public Law (P.L.) 100-77, Section 802; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768]); Section 66011, Education Code; Public Law (P.L.) 102-237, Section 902; 7 U.S.C. 2014(c)(2)(B) and (k)(2)(F); U.S.D.A. Food and Nutrition Service Administrative Notice 94-39; Hamilton v. Madigan (9th Cir. 1992) 961 F.2d 838.

Amend Sections 63-406.11, .12, .121, .211, .212, .216 et seq., .217, .22, and .221; include Handbook Examples in Sections 63-406.122(a) and (b); and adopt Sections 63-406.111 et seq. and .122 to read:

## 63-406 STUDENTS

### .1 Applicability.

- .11 Any person who is age ~~eighteen~~ 18 through ~~forty nine~~ 49; physically and mentally fit for employment; and enrolled at least half-time, as defined by the institution, in an institution of higher education (as defined in Section ~~63-102(I)~~ 63-406.111)(a), shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements as specified in Section 63-406.2.

.111 To be considered a student at an institution of higher education, a person specified in Section 63-406.111(a)(1) needs only to be enrolled at least half time; whereas a person specified in Section 63-406.111(a)(2) needs to be both enrolled at least half-time and enrolled in a regular curriculum. A regular curriculum at an institution of higher education means the standard requirements for graduation or certification/ qualification in a particular field of study.

(a) An "institution of higher education" refers to:

(1) A business, trade, technical or vocational school at the post-high school level that normally requires a high school diploma or equivalency certificate for enrollment; or

(2) A junior, community, two-year or four-year college or university, or graduate school, regardless of whether a high school diploma or equivalency certificate is required.

(A) If a college normally requires a high school diploma or equivalency certificate, but does not require either of these for a particular program or course, enrollment in such a program or course does not constitute enrollment in an institution of higher education.

- .12 Student eligibility requirements shall not apply to persons age 17 or under, persons age 50 or over, ~~or~~ persons physically or mentally unfit for employment, persons attending high school, ~~persons enrolled exclusively in noncredit college courses or special programs at a college or university, such as but not limited to, English as a Second Language (ESL) and General Education Diploma (GED) courses, persons participating in on strictly in the-~~ job training ~~portion of on-the-job-training programs as opposed to the class attendance portion,~~ persons enrolled in an institution of higher education as specified in Section 63-406.111(a)(1) less than half-time, persons enrolled in a regular

curriculum in an institution of higher education as specified in Sections 63-406.111 and 63-406.111(a)(2) less than half-time, or to persons enrolled full-time in schools and training programs which are not institutions of higher education.

.121 If mental or physical unfitness for employment is claimed and the unfitness is not evident to the CWD, verification shall be required. Appropriate verification may consist of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

.122 Participants in an on-the-job training program would have to meet the student eligibility requirements when they were only attending classes in an institution of higher education at least half-time, and not involved in the training portion as specified in Section 63-406.12.

#### HANDBOOK BEGINS HERE

Example (a) A man is involved in a six-month on-the-job training program at a vocational school that normally requires a high school diploma. During the first three months of the program he engages exclusively in full-time, on-site classroom instruction, to prepare him to work in the shop area. He must meet one of the student eligibility requirements as specified in Section 63-406.21 to be eligible to receive food stamps because he is a student at an institution of higher education as specified in Sections 63-406.111 and .111(a)(1).

Example (b) A man is involved in a six-month on-the-job training program at a vocational school that normally requires a high school diploma. He spends the first four hours each day in classroom instruction and the second four hours in the shop, applying what he learned on-the-job. He does not have to meet the student eligibility requirements as specified in Section 63-406.21 because he is engaged in on-the-job training and therefore is exempt from meeting the student eligibility requirements.

#### HANDBOOK ENDS HERE

## .2 Eligibility Requirements.

.21 In order to be eligible to participate in the Food Stamp Program, any student (as defined in Section 63-406.1) shall meet at least one of the following criteria on the date of the interview:



.211 Be employed for a minimum of twenty hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive gross weekly earnings at least equal to the federal minimum wage multiplied by 20 hours; (See Sections 63-408.111 and Section 63-502.112).

.212 ~~Be participating in a approved for~~ state or federally financed work study ~~program during for the regular current school year term,~~ as defined by the institution, and anticipate working during the term.

The exemption begins the month the school term starts or the month work study is approved, whichever is later. The exemption continues until the end of the month the school term ends, or it becomes known that the student refused a work assignment.

The exemption shall not continue between terms when there is a break of a full-month or longer unless the student is participating in work study during the break. (Continued)

.216 Be assigned to or placed in an institution of higher education through ~~or in compliance with the requirements of Sections 63-406.216(a) through (e).~~

Self-initiated placements during the period of time the person is enrolled in one of the employment and training programs as specified in Sections 63-406.216(a) through (e) shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled, provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement.

Persons who voluntarily participate in one of the employment and training programs as specified in Sections 63-406.216 (a) through (e) and are placed in an institution of higher education through or in compliance with the requirements of the program shall qualify for the exemption. These programs are:

(Aa) through (Bd) (Continued)

(Be) a state or local government employment and training program, for low-income individuals, determined by the county welfare department to be providing at least one of the components as specified in Section 63-407.841 as determined to be appropriate by the Food and Nutrition Service (FNS).

.217 Enrolled full-time in an institution of higher education and is a single parent with responsibility for the care of a dependent child under age 12.

This provision applies when only one of the child's(ren's) natural, adoptive or stepparents, regardless of marital status, is in the same food stamp household as the child(ren) "Regardless of marital

status" means that the parent could be single (never married) , a widow or widower, separated, divorced, or married and living in a separate household from the other parent.

HANDBOOK BEGINS HERE

- (a) For example, if one natural parent and a stepparent are living with the child, neither the natural parent nor the stepparent could qualify for the student exemption.

HANDBOOK ENDS HERE

If no natural, adoptive or stepparent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status if he or she has parental control over the child and is not living with his or her spouse.

- .22 The enrollment of a student shall begin on the first day of the school term of the institution of higher education. Once a student enrolls in an institution of higher education, such enrollment ~~and work study participation (if the student is engaged in work study)~~ shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or drops out.
- .221 Student eligibility criteria shall be applied on the date of ~~application~~ the interview to all applicants who are students as defined in Section 63-406.1. The student eligibility criteria shall also be applied on the date of ~~application~~ the interview to all applicants who are noncontinuing students in the final month of student status. (Continued)

Authority cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 273.5, .5(a), .5(b) (6), (b) (7), (b) (10), and (b) (11); 7 CFR 273.10(b); 7 CFR 273.5, Federal Register, Volume 60, Number 183, dated September 21, 1995; and 7 U.S.C. 2015(e).